

CABINET

10 JANUARY 2024

WORCESTERSHIRE CHILDREN FIRST – CONTRACT OPTIONS

Relevant Cabinet Members

Councillor Tracey Onslow
Councillor Steve Mackay

Relevant Chief Officer

Chief Executive

Recommendation

1. **The Cabinet Members with Responsibility for Children Services and Education recommend that Cabinet approves:**
 - a) **Not to extend the contract with Worcestershire Children First beyond September 2024 when the contract is currently due to end after the initial five-year term and:**
 - b) **Subject to this approval, authorises the Chief Executive and the Director of Childrens Services, in consultation with the relevant statutory officers, to take appropriate steps on behalf of the council to progress the recommended approach.**

Background

2. In November 2016, Ofsted judged Children’s Services in Worcestershire to be ‘inadequate’, a finding that Worcestershire children services had a “persistent and systemic failures” and led to the DfE appointment of a commissioner to review the council’s ability to improve services.
3. The DfE subsequently appointed a Commissioner for Worcestershire to lead the further review. The review was completed in June 2017, and the Commissioner’s report was published in September 2017. The report concluded there was insufficient evidence to demonstrate that continuing to provide services in-house would deliver and sustain the necessary improvements.
4. This led to a further Statutory Direction, that the Council would move those services which were under direction into an Alternative Delivery Model (ADM), requiring the Council to carry out an options analysis with an outline recommended model by the end of December 2017 followed by the completion of a Full Business Case by 31 March 2018.

5. In March 2018, Cabinet noted the outcome of the full business case, and approved the recommended option to develop a wholly owned Company as the ADM to deliver Children's Social Care. This was subsequently approved at Council and the Department for Education (DfE) agreed to fund the start-up costs required.

6. It was agreed that in addition to services under statutory direction i.e., Children's Social Care, the children's services of Education and Early Help should also be transferred into the developing company so as to ensure best possible coordinated development and delivery of services to children in the county.

7. Ofsted returned for another inspection of Children's Services in June 2019. At this point, the Service was judged to 'require improvement to be good' in all areas, reflecting the strong progress made by Children's Services since the 2017 inspection, and ahead of the implementation of the ADM model.

8. Worcestershire Children First (WCF) was launched in October 2019. Since this launch date, further services pertaining to Schools Finance and Learning and Achievement have been moved into the Company, with staff transferring in from both WCC and Babcock Prime. As September 2023, the Company gross expenditure budget is £148.4m, with budgeted FTE of 942.01.

9. In July 2023, a full OFSTED inspection of Local Authority Childrens Services (ILACS) was undertaken with an outcome of Good for overall effectiveness of the services. Ofsted inspectors noted that there had been continued progress since the last inspection in 2019 and found that "the senior leadership team in WCF has continued to work effectively with political leaders to improve outcomes for children" and that "there is a coordinated drive to continue to improve children's experiences and relationships with key partners are effective."

10. The report recognised that children's outcomes have improved as a result of family focussed, child centred early help and proportionate statutory intervention when in the best interests of children.

11. The 2019 contract was signed for an initial term of five years from 1 October 2019 with a natural break, with the option for the Council to extend for a further five years from 1 October 2024, or for the contract to end at that date.

Financial Performance of Worcestershire Children First

12. The Company has successfully been able to deliver services 2019 – 2022 in budget with a small surplus (profit) in each of the first three years.

13. Subsequently, in year 2022/23 and most significantly in the current year 2023/24 the pressures seen nationally in the market for children's placements has had an adverse effect on the Company's budget performance as a result in the increase of the cost children's placements which is a national issue. Table 1 below shows the financial position for each year of the WCF contract.

Table 1 – Worcestershire Children First Annual Surplus/Deficit figures:

Year ending	March 2020	March 2021	March 2022	March 2023	March 2024
Actual/Forecast	£m (Actual)	£m (Actual)	£m (Actual)	£m (Actual)	£m (P6 Forecast)
(Surplus)/Deficit	(0.645)	(0.474)	(0.056)	7.647	28.578
Additional support from WCC	0.000	0.000	0.000	(7.647)	N/A
(Surplus)/Deficit reported in WCF accounts	(0.645)	(0.474)	(0.056)	(0.000)	N/A

Worcestershire Children First Key Performance Indicators (KPIs)

14. Appendix 1 shows the historical performance of WCF against the contractual KPIs. With the exception of SEND KPI's, the company has achieved consistently against its company targets for social care performance.

Proposal – Bring WCF Services back into the County Council

15. The current contract will cease on 30 September 2024 after its initial 5-year term.

16. The services delivered by WCF are largely statutory and therefore cessation of the WCF contract would require those services to come back 'in house' to WCC. This would include the transfer of existing WCF staff into the Council. This would be undertaken by a Transfer of Undertakings Protection of Employment Rights (TUPE) exercise. TUPE protects the employment rights and terms of conditions of staff on transfer to another employer. This will involve a consultation process with staff who are in scope to TUPE transfer This would be supplemented by engagement sessions.

17. There will be a need to obtain HR advice, to make changes to some IT systems, to novate any contracts held by WCF for the provision of services, and costs associated with banking and system changes. These will be one-off costs that WCC will be required to fund. There will also be costs to close the company down and produce final accounts. It is estimated that these costs will not exceed £100k.

18. Within WCF, there are areas (e.g., Finance, Performance and Communications) where work could commence on an earlier transfer of staff back to WCC. WCF could still access these resources, but through the support-service agreement with WCC. The benefit of this would be that WCF and WCC functions could be considered together in any review of capacity to best meet demand in the current challenging financial environment.

The expected benefits of this proposal are:

- There would be no requirement for a Director of Resources, a WCF board Chair, or Non-Executive Directors. The requirement for corporation tax services – currently provided by KPMG – would also cease. There may also be a saving relating to the External Audit Fee. Overall, the savings that could be released specifically from the winding down of the Company would total £200k.

- Any forthcoming developments of WCC will incorporate Children Services and present WCC as “one council”
- The improvements achieved in WCF can be used as lessons learned and approaches used to achieve improvements inform the future development and delivery of WCC
- Planned integration of the existing leadership team back in to WCC

Whereas potential risks include:

- The changes this would require could increase staff insecurity, impact on the single children’s services focus and change the business planning and resourcing in place. These changes may impact causing disruption or delay to ongoing improvement and delivery of the business plan. Mitigation to this risk is the time factor, giving nine months transition time to support positive planned communications and practical logistics to take place enabling staff at all levels to prioritise front line business.

19. Disruption to the current effective model could result in service quality decline and this decline being identified by further Ofsted and other statutory body audits and inspections which could bring an association with the change and as such reputational risk to WCC as an employer and provider of Children’s services as identified in 2016/17. Mitigation to this risk is the planned integration of the existing management and leadership structure back into WCC.

20. Alternative options have been considered including extending the WCF Contract for a further period of anything up to five years. This option would not realise the benefits of the proposal to bring WCF services back into the Council, including the release of recurrent revenue savings.

Views of the WCF Board

21. The WCF Board consists of an Independent Chair, the WCF Chief Executive (who is also Director of Children’s Services) six Non-Executive Directors (two of which are Worcestershire County Council Councillors), and five Executive Directors who are senior manager operational leads of WCF services. The Board met on 28 November 2023 and the view of the Board on the options presented was sought. Paragraphs 25-32 outline the feedback from WCF Board.

22. The WCF Board fully appreciate the requirement for the Council to consider service delivery options at the end of the current contract period.

23. As stated in the report, the requirement for the formation of the company, which was fully underwritten by the DfE, arose out of many years of poor performance.

24. Extremely strong leadership with considerable focus on performance and continuous improvement has reversed this position and delivered a rating of Good in the recent ILAC Inspection. Whatever option for service delivery is adopted in the future the Board are all agreed that this hard-won status must not be relinquished with a consequential return to poor service and negative outcomes for children, young people and families.

25. The stability of continuing with the current senior leadership arrangements cannot be empathised enough. The senior leadership have forged positive working relationships with a wide range of stakeholders including the regulators and any change may be considered detrimental by stakeholders and be an unwanted distraction given the challenges we face in trying to reduce our budget overspends in residential care and improving our SEND performance.

26. The savings quoted in the report need to be identified more robustly to assist the decision-making process. Compared to our baseline budget the savings identified are small and will not immediately aid our overspend situation and some of our financial challenges, which are driven by national market conditions.

27. It is welcoming to note that the approach adopted in the company could be utilised in other parts of the Council particularly robust business planning and performance management.

28. The Board acknowledge that certain support services (finance, HR, etc) could be returned to the Council earlier than the end of the contract period to assist in savings and restructuring of Council services. The Board have given approval to the Executive team to implement any changes that are identified and enter into service level agreements to provide those services in the future, a model that is already supported. However, there is a consensus view in the Board that support services providing frontline support to social service business units should be retained in the company.

29. In conclusion, the Board ask that any option for change is implemented at the end of the current contract to provide adequate time for robust planning and consultation with staff and stakeholders to affect an orderly change to avoid potential disruption to delivering service and the potential negative views of key stakeholders. It is our view that services should remain intact although we acknowledge that continuous improvement and innovation in delivery will continue to assist the company and the council to meet their respective financial challenges.

Legal, Financial and HR Implications

30. In accordance with Section 17 of the Childrens Act 1989 (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)— (a) To safeguard and promote the welfare of children within their area who are in need; and (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.

31. As is set out within the body of the report, by virtue of a Secretary of State Direction in 2017 the Council were required to establish an alternative delivery model company (WCF) and transfer to it the delivery of certain specified Children's Services functions. The Council completed an options analysis and Cabinet, having noted the full business cases approved the recommendation to develop a wholly owned company as an ADM to deliver Children's Social Care.

32. That Direction was subsequently lifted and the Council is free to consider how best to deliver those functions. The legal powers and duties in relation to safeguarding children

have remained with the Council throughout the period of the WCF arrangement and this will not change. The current contract with WCF for the provision of services runs until September 2024.

33. Cessation of the WCF contract and transfer of services back into WCC will allow for some release of revenue savings for WCC, relating to the costs for WCF Director of Resources, WCF Non-Executive Director costs, and WCF Audit and Tax Computation fees. The recurrent savings for these items are estimated at £0.200m. In Year One, savings will be partly mitigated by cost of change e.g. systems changes and legal advice.

34. Under the proposal outlined in this report WCF staff currently carrying out the services, will transfer to the Council in accordance with the provisions of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). TUPE imposes obligations on the incoming and outgoing employers of transferring staff. Specific legal advice should be sought regarding the obligations of the receiving employer and in relation to an appropriate consultation process involving affected staff. Specific legal advice should also be sought in relation to company matters and the assignment of any contracts held by WCF. WCF will need to seek their own legal advice, if considered necessary.

Equality Impact Considerations

34. A full Equality Impact Assessment has been carried out in respect of the recommendations – Appendix 2. This identified potential negative impact for a range of protected characteristics, as detailed within the appendix. Notwithstanding the potential negative impact, the recommended course of action can be justified because: positive financial implications, continuous provision of statutory services. The mitigating actions have been identified both within the report proposal and within the EIA itself, pending further potential detail and enhancement upon decision. Relevant findings will contribute to future service commissioning.

Supporting Information

- Appendix 1 – WCF KPI History October 2020 – October 2023
- Appendix 2 – Equalities Impact Assessment

Contact Points

Paul Robinson, Chief Executive

Background Papers

In the opinion of the proper officer, in this case the Chief Executive there are no relevant background papers relating to the subject matter of this report.